



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,710	01/16/2001	Konstantinos Poulakis	41145	7776

7590

12/10/2002

Mark S Bicks  
Roylance Abrams Berdo & Goodman  
1300 19th Street N W Suite 600  
Washington, DC 20036

EXAMINER
----------

RHEE, JANE J

ART UNIT	PAPER NUMBER
----------	--------------

1772

DATE MAILED: 12/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/743,710

Applicant(s)

POULAKIS ET AL.

Examiner

Jane J Rhee

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 9-19.

Claim(s) withdrawn from consideration: none.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: see attachment

## **ADVISORY ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed in November 21, 2002 have been fully considered but they are not persuasive.

The Amended claims 9 and 19 will not be entered because new matter from the previous amendment still remains in the newly amended claims. The new matter is the recitation of a ferromagnetic coating extending throughout the entire foam covering.

In response to applicant's argument that the finality of the office action is premature since subject matter indicated in February 6, 2002 office action as being allowable is now rejected and limitations in the previously submitted claims are now rejected as being insufficiently disclosed, the finality of the office action is not premature since new matter has been incorporated into the independent claim, therefore creating a different scope in the independent claim.

In response to applicant's argument that claim 5 would have been allowable if rewritten in independent form, applicant states that the combination of original claims 1 and 5 were rewritten in independent form, however, new matter was incorporated into claim 1 therefore forgoing its original form. Claim 19 is a combination of claim 1 including the new subject matter and claim 5.

In response to applicant's argument that SU-9182 is incorporated by reference and fully supports the recitation of a ferromagnetic coating extending throughout the entire foam covering, SU-9182 is not incorporated by reference and does not fully support the recitation at issue. Also, in the originally filed specification at page 3, 4<sup>th</sup>

Art Unit: 1772

paragraph, "the covering element is provided with a ferromagnetic coating for example with a coating of polyurethane, as is commercially available under the name SU-9182 by Firma Stahl, which contains admixed particles of granular size  $<10\mu$  as ferromagnetic material" and on page 5, "a polyurethane coating containing ferromagnetic substances" does not give support that the ferromagnetic coating extends throughout the entire foam covering, it merely suggests that the covering element is provided with a ferromagnetic coating and that the polyurethane coating contains ferromagnetic substance.

In response to applicant's argument concerning the Billarant patent that the ferromagnetic coating attaches covering 20 to the mold by the interaction of the magnets with the covering 20 and that there is no motivation to provided the ferromagnetic coating throughout the entire foam inhibiting covering, Billarant teaches that the ferromagnetic coating sticks firmly to the film (24) not coated with silicone (col. 5 lines 47-48) therefore, the ferromagnetic coating is not limited to extending across the cover corresponding to the magnet.

In response to applicant's argument that Bilarant teaches that the covering is on the same side as the adhering elements and that the covering should be on the opposite side from the adhering elements, Bilarant does teach that the covering is on the opposite side of the adhering elements since the covering is *across* from the adhering elements.

In response to applicant's argument that Bilarant does not teach that the magnets are placed about a portion of the forming mold receiving the adhering elements to cooperate with a border of the covering, Bilarant does teach that the

Art Unit: 1772


magnets are placed about a portion of the forming mold receiving the adhering elements to cooperate with a border of the covering, the border as the examiner sees it can be considered the front and rear portions of the fastening member and not necessarily the sides of the fastening member.

In response to applicant's argument that the fleece or felt of claims 14,15,18 are allowable since that are not anticipated or obvious over prior art, claims 14,15, and 18 are still rejected under 112 first paragraph as containing new matter therefore claims 14,15, and 18 are not allowable.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee  
December 4, 2002



HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

12/9/02